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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,874	03/26/2001	Noel Roger Wakelin	1029.65160	8699

24978 7590 05/03/2006

GREER, BURNS & CRAIN  
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CHICAGO, IL 60606

EXAMINER
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LOPEZ, MICHELLE

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/744,874	WAKELIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michelle Lopez	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 14-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/14/06 has been entered.

New claim 15 has been added.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5, 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is insufficient antecedent basis for the following limitations in the claims: in claim 1 “the trigger lever” in line 7, “the longitudinal axis of the shaft” in line 8, “the two ends” in line 11, and “the sole user management points” in lines 13-14; in claim 5 “the nail gun”; in claim 15 “the other end of the shaft” in line 5, “the longitudinal axis” in line 8, and “the two ends of the shaft” in line 11.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolodziejczyk 4,359,822 in view of Haytayan 4,339,065.

Kolodziejczyk discloses the invention substantially as claimed including a shaft 21 adapted so as to be attachable at one end thereof to the hand tool 3; a hand grip located at the other end of the shaft; a trigger activator 49 positioned near the hand grip capable of being operatively connected to a trigger 69 associated with the hand tool, wherein said trigger activator controls a trigger lever 63 to operate the trigger 69 associated with the hand tool; wherein the hand grip includes a second hand grip 45 positioned on the shaft at a point intermediate to the two ends of the shaft, wherein the second hand grip extends radially from the shaft and is positionable about and along the longitudinal axis of the shaft (claim 1); wherein the trigger operated hand tool is motorized (claim 2), but does not disclose wherein the hand grip is angled with respect to the longitudinal axis of the shaft to allow the handle to be easily gripped by a person's hand. Haytayan teaches a handle assembly with hand grip 306 angled with respect to a longitudinal axis of a shaft. It would have been obvious to one having ordinary skill in the art to have provided Kolodziejczyk hand grip as taught by Haytayan to allow the handle be easily gripped by a user.

With respect to claim 3, Haytayan also teaches wherein the hand tool is a nail gun.

With respect to claims 4 and 15, Kolodziejczyk as modified by Haytayan does not specifically disclose that the length of the shaft is substantially 50cm to 70cm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to find the optimum range for a shaft since it has been held that where the general conditions of a claim are disclosed in the prior art discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

With respect to claims 5 and 14-15, Kolodziejczyk also discloses clamp means 33,41 for holding the tool (claim 5); wherein second hand grip includes an integrally formed handle portion 45 and a collar portion at the vicinity of 47 (claims 14-15).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rice and Dewey are cited to show related inventions.

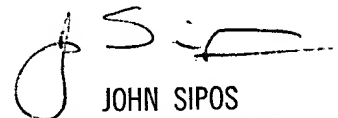
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3721

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ML



JOHN SIPOS  
PRIMARY EXAMINER